

Exhibit 3

1 UNITED STATES DISTRICT COURT
2 MIDDLE DISTRICT OF TENNESSEE
3 NASHVILLE DIVISION

4 TENNESSEE EQUALITY PROJECT)
5 FOUNDATION, INC.)
6 VS) No. 3:23-cv-1044
7 THE CITY OF MURFREESBORO,)
8 TENNESSEE, et al)

9
10 BEFORE THE HONORABLE BARBARA D. HOLMES,
11 MAGISTRATE JUDGE

12 **TRANSCRIPT OF ELECTRONIC RECORDING**

13 October 17, 2023
14 (Telephone Conference)
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1 hearing over an issue that I feel reasonably confident
2 that counsel can get worked out to everyone's
3 satisfaction and assurance themselves, I'd be all for
4 that. And I don't know what timeframe you're looking at.
5 Today's, what, Monday morning? Maybe end of business
6 Wednesday, if that's possible.

7 THE COURT: I think that makes sense. Let
8 me hear from Ms. Berexa or Ms. Crane about the questions
9 that I've asked Mr. Burns. So specifically any discovery
10 that's needed, any anticipated witnesses for any hearing
11 if it's going to be expedited. And only with respect to
12 an expedited hearing. I understand if this hearing is
13 pushed out to some later date that all of the procedural
14 issues and other things that we're talking about today
15 may completely change. And then finally, whether there's
16 anything different than what Mr. Burns described with
17 respect to anticipated enforcement of the ordinance on
18 October 28. So Ms. Berexa or Ms. Crane?

19 MS. CRANE: Thank you, Your Honor. This is
20 Casey Crane. I'm actually going to make this very easy.
21 Plaintiff fashioned their motion to seek injunctive
22 relief against all defendants. I reached out to Stella
23 Yarbrough from ACLU yesterday to kind of discuss whether
24 that was appropriate to seek injunctive relief against
25 the individuals.

1 Ms. Yarbrough confirmed last night in an
2 email that they are only seeking injunctive relief
3 against the City and against the individuals in their
4 official capacity. So I don't know for the purposes of
5 this motion or a hearing that we have a dog in the fight,
6 quite frankly. So I don't think we have anything to add,
7 in addition to what Mr. Burns said.

8 That being said, of course if there are
9 conversations amongst counsel in trying to reach an
10 agreement, we're happy to join those and cooperate to the
11 extent possible, but I don't think that our clients in
12 their individual capacity would be before the Court on
13 this issue.

14 THE COURT: Thank you for that
15 clarification, because it did appear to me also that the
16 motion for injunctive relief was as to all defendants, so
17 it's helpful to know that the plaintiff is no longer --
18 or maybe never was intending to proceed against the
19 individuals -- against the officials in their -- City
20 officials in their individual capacity because that does
21 at least simplify some of the issues.

22 So then I think it's back to you,
23 Mr. Robotti, with respect to some of these questions.
24 First of all, the -- I know that you haven't had a chance
25 to talk yet to the defendant's counsel with respect to

1 the prospect of a -- reaching an agreement, but it is my
2 intention to tell you that you-all need to have intensive
3 discussions between now and either the close of business
4 tomorrow or first thing Thursday morning to try to see if
5 you can reach an agreement about what's going to happen
6 on October 28. So that's one issue that I want you to
7 address.

8 Then I also want you to confirm on the
9 record that you are not seeking injunctive relief against
10 the City officials in their individual capacities. And
11 then finally to the extent that you don't reach an
12 agreement if there are witnesses that the City or the
13 City officials in their capacity intend to call
14 depositions of those individuals.

15 So if you would address those. And also
16 respond to any other of the matters that you'd like to
17 respond to.

18 MR. ROBOTTI: Yes, thank you, Judge. So
19 with respect to whom we're seeking injunctive relief
20 against, that is correct, we are not seeking injunctive
21 relief against the City officials in their individual
22 capacities because our understanding is they do not have
23 the ability in their individual capacities to enforce
24 this ordinance. So that is accurate.

25 In terms of working out an agreement, of